

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2271 – SB 2261

March 20, 2018

**SUMMARY OF ORIGINAL BILL:** Creates the Juvenile Justice Reform Act of 2018 for the purpose of improving the juvenile justice system and expanding community-based resources and solutions for delinquent and unruly youth.

Prohibits the court from ordering a child to be placed in the custody of the DCS for any length of time if the offense would constitute a misdemeanor if committed by an adult, is an unruly offense, a violation of probation, diversion or home placement supervision or a failure to satisfy any court ordered condition. Further, a child cannot be placed in DCS custody for failure to complete community service work as ordered by a court.

Establishes that a child is presumed to be ineligible for commitment to the DCS unless the current offense for which the child has been adjudicated delinquent and is subject to disposition is an offense against a person that would constitute a felony if committed by an adult, or would constitute a felony if committed by an adult, and the child has previously been adjudicated delinquent for an offense arising from a separate incident that would constitute a felony if committed by an adult.

Requires a delinquent child committed to the custody of DCS for an indefinite time be discharged or placed on home placement supervision after a maximum of six months, excluding any amount of time that a child is absent from placement for whatever reason, unless the treatment and rehabilitation of the child require that the child remain in custody beyond six months to complete an evidence-based program in a custodial setting addressing a treatment need identified by a validated risk and needs assessment, the child is alleged to have committed a new delinquent act, or the child is alleged to be an escapee from a secure juvenile facility or institution.

Prohibits a judge from requiring an appearance bond for a juvenile detained for a delinquent or unruly act. Prohibits various fees against a child in a delinquent or unruly case, including in any order of disposition. Makes various fees against a child permissive as opposed to mandatory, including administration fees for court appointed counsel. Removes authorization for the court to punish a child with a fine or imprisonment for contempt of court.

Allows a child less than 14 years of age be transferred to adult court if the offense involved is criminal homicide or attempted criminal homicide. Allows a child 14 years of age or older be transferred to adult court for specified violent personal offenses.

By July 1, 2019, requires that a validated risk and needs assessment be used in all delinquent cases post disposition in making decisions and recommendations regarding programming and treatment.

By July, 1, 2019, requires DCS or supervising authority to develop an individualized case plan for every child adjudicated for a delinquent or unruly offense.

Requires the DCS and each juvenile court providing supervision services to adopt a behavior response system. Requires the DCS to develop a system of performance-based metrics and incentives to use with the state institutions, foster and group homes, and any other entities, public or private, that are authorized by law to receive or provide care or services for children.

Requires the Administrative Office of the Courts (AOC), the DCS and the Commission on Children and Youth to jointly submit a report addressing statewide data collection in the juvenile justice system, on or before January 1, 2019, to the Governor, Speaker of the Senate, and Speaker of the House of Representatives.

#### FISCAL IMPACT OF ORIGINAL BILL:

Decrease State Revenue – \$50,300/FY18-19 and Subsequent Years

Increase State Expenditures – \$4,500,000/FY18-19

Decrease State Expenditures – Net Impact – \$209,000/FY19-20  
\$2,014,400/FY20-21  
\$2,377,900/FY21-22  
\$2,323,500/FY22-23  
\$2,258,100/FY23-24 and Subsequent Years

Decrease Federal Expenditures – \$9,548,900/FY19-20  
\$13,215,600/FY20-21  
\$13,582,500/FY21-22  
\$13,574,700/FY22-23  
\$13,522,300/FY23-24 and Subsequent Years

Decrease Local Revenue – \$2,600/FY18-19 and Subsequent Years/Permissive

Other Fiscal Impact – The proposed legislation will result in additional impacts on the local courts and law enforcement agencies. Due to multiple unknown factors, any related fiscal impacts on the state and local governments cannot be quantified with reasonable certainty.

**SUMMARY OF AMENDMENT (015595):** Deletes all language after the enacting clause such that the substantive changes are:

- Authorizes a judge to require an appearance bond for a juvenile detained for a delinquent or unruly act.
- Deletes provision of the original bill that prohibited a child alleged unruly or adjudicated unruly from being detained for a violation of a valid court order.
- Adds language that specifies completion of substance abuse and mental health treatment services as a reasonable condition to defer proceedings and place a child on probation without entering a judgement of guilty.
- Adds language that authorizes transferring temporary legal custody or granting permanent guardianship to any relative or other individual with a relationship with the child as an order of disposition best suited to the child's treatment, rehabilitation and welfare.
- Adds language to authorize a court to commit a child to DCS custody for a violation of probation if it finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health and safety and needs specific treatment services that are only available if the child is placed in the DCS custody.
- Adds language to authorize a court to commit a child to DCS custody for a misdemeanor offense if the child has two prior adjudications arising out of separate offenses or if the court finds by clear and convincing evidence that the child is in imminent risk of danger to the child's health and safety and needs specific treatment services that are only available if the child is placed in the department's custody.
- Adds language to require the AOC, the DCS and the Commission on Children and Youth to consult with appropriate school and law enforcement personnel in preparing the report.

## **FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:**

**Decrease State Revenue – \$50,300/FY18-19 and Subsequent Years**

**Increase State Expenditures – \$4,500,000/FY18-19**

**Net Impact – \$4,186,900/FY19-20**

**\$4,076,700/FY20-21**

**\$4,087,600/FY21-22**

**\$4,106,500/FY22-23**

**\$4,125,400/FY23-24 and Subsequent Years**

**Decrease Federal Expenditures – \$564,000/FY19-20  
\$762,400/FY20-21  
\$742,800/FY21-22  
\$708,800/FY22-23  
\$676,600/FY23-24 and Subsequent Years**

**Decrease Local Revenue – \$2,600/FY18-19 and Subsequent Years/Permissive**

**Other Fiscal Impact – The proposed legislation will result in additional impacts on the local courts and law enforcement agencies. Due to multiple unknown factors, any related fiscal impacts on the state and local governments cannot be quantified with reasonable certainty.**

**The administration budget amendment to the Governor’s proposed budget for FY18-19 recognizes a recurring increase in expenditures of \$4,500,000 to the General Fund.**

Assumptions for the bill as amended:

- The DCS will see a consistent 2 percent reduction in the number of delinquent and unruly juveniles committed to department custody over the next 5 years; therefore realizing a decrease in state and federal expenditures.
- Due to the fluctuation in the population of delinquent and unruly juveniles in DCS custody each year, the decrease in state and federal expenditures will reflect the estimated projected population for each fiscal year.
- The approximate 2 percent decrease in the total number of delinquent and unruly juveniles committed to the DCS in FY19-20 will result in a decrease in state expenditures of \$313,135, and a decrease in federal expenditures of \$563,994.
- The approximate 2 percent decrease in the total number of delinquent and unruly juveniles committed to the DCS in FY20-21 will result in a decrease in state expenditures of \$423,268, and a decrease in federal expenditures of \$762,358.
- The approximate 2 percent decrease in the total number of delinquent and unruly juveniles committed to the DCS in FY21-22 will result in a decrease in state expenditures of \$412,384, and a decrease in federal expenditures of \$742,752.
- The approximate 2 percent decrease in the total number of delinquent and unruly juveniles committed to the DCS in FY22-23 will result in a decrease in state expenditures of \$393,528, and a decrease in federal expenditures of \$708,791.
- The approximate 2 percent decrease in the total number of delinquent and unruly juveniles committed to the DCS in FY23-24 will result in a decrease in state expenditures of \$374,642, and a decrease in federal expenditures of \$676,625. Such decreases in state and federal expenditures will level off in FY24-25 and subsequent years.
- Precise calculations utilized to reach the abovementioned estimates have been omitted from this fiscal note for purposes of brevity. However, such calculations are available upon request from the Fiscal Review Committee staff.

- There will be \$4,500,000 in recurring expenditures from the General Fund, beginning in FY18-19, that will go towards expanding community-based services and training to provide treatment options for juvenile courts to utilize across the state.
- The net increase in state expenditures is estimated to be \$4,186,865 (\$4,500,000 - \$313,135) in FY19-20, \$4,076,732 (\$4,500,000 - \$423,268) in FY20-21, \$4,087,616 (\$4,500,000 - \$412,384) in FY21-22, \$4,106,472 (\$4,500,000 - \$393,528) in FY22-23 and \$4,125,358 (\$4,500,000 - \$374,642) for FY23-24 and subsequent years.
- Pursuant to Tenn. Code Ann. § 37-1-126(c)(1), a \$50 administrative fee may be assessed against a child who is provided with court-appointed counsel or a guardian ad litem.
- Passage of this legislation would make this fee permissive as opposed to mandatory.
- Based on information provided by the AOC, administrative fees were ordered to be paid for a total of 10,595 cases in 2016. This number is assumed to remain constant into perpetuity under current law.
- It is assumed that administrative fees will not be assessed on 10 percent or 1,059 (10,595 cases x 10.0%) of cases as a result of this legislation.
- The recurring decrease in revenue associated with fewer fees assessed is estimated to be \$52,950 (1,059 cases x \$50 fee), beginning in FY18-19.
- Pursuant to Tenn. Code Ann. § 37-1-126(c)(3), the clerk of the court shall retain a commission of five percent of each dollar of administrative fees collected. The permissive recurring decrease in local revenue as a result of fewer fees assessed is estimated to be \$2,648 (\$52,950 x 5.0%), beginning in FY18-19. The recurring decrease in state revenue is estimated to be \$50,302 (\$52,950 - \$2,648), beginning in FY18-19.
- The proposed legislation could result in subsequent impacts to the state and local government. For example, the legislation authorizes law enforcement officers to issue a citation and release a child in custody, in lieu of continued custody of the child, if the offense committed would be considered a misdemeanor if committed by an adult.
- In addition, the legislation authorizes police and sheriff's departments to create and administer their own juvenile diversion programs to address citable juvenile offenses without court involvement.
- Due to multiple unknown factors, such as the number of juveniles who will be cited and released in lieu of continued custody, the extent to which such practice takes place under current law, specific fees and expenditures associated with such citations and custody, financials associated with creation and operation of juvenile diversion programs, the extent of any reduction in the number of juveniles referred to juvenile courts, and fees and expenditures associated with such cases, any fiscal impact to the state or local government cannot be quantified with reasonable certainty.
- Passage of this legislation will decrease the number of youth prosecuted and incarcerated as an adult.
- As of February, 2018, there are six juveniles in the custody of the Department of Corrections (TDOC). Due to such a small number of juveniles in TDOC custody, the proposed legislation is estimated to have no significant impact on the TDOC.
- The AOC, DCS and Commission on Children and Youth can submit the required report by January 1, 2019 utilizing existing resources without an increased appropriation or reduced reversion.

**CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in dark ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/vlh